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November 30, 2018

BY ELECTRONIC FILING

Honorable Deborah A. Batts
United States District Court
Judge United States District
Courthouse Southern District of
New York 500 Pearl Street
New York, NY 10007-1312

Re: Baker v. Southern Wellcare Medical PC et al
Docket No. 17-CV-03220 (DAB)

Request that the 12/6/18 conference be also
deemed a pre-motion conference

Dear Judge Batts:

I am the newly substituted attorney for all defendants in this action. I note that the court has scheduled a status conference for 12/6/2018 at 10:00 am.

I am writing to respectfully request that said conference, also be deemed a pre-motion conference for a motion by defendant to dismiss for lack of Federal Jurisdiction.

Plaintiff has brought this action under Title VII of the Civil Rights Act of 1964, alleging that she was discriminated and terminated by her employer solely due to her pregnancy and gender.

Title VII of the Civil Rights Act of 1964 defines an employer for the purposes of the Act, as an entity that has "fifteen or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year."

Neither of the two defendant entities herein, SOUTHERN WELLCARE MEDICAL, P.C., or BLUE MEDICAL SERVICES, P.C., employed 15 or more employees during the relevant time period.

In reviewing the docket, I see that the court had previously directed that the pertinent payroll records be exchanged amongst counsel, to see if the parties could come to an agreement on whether or not jurisdiction exists. My understanding is that this was done, but the parties could not come to an agreement on jurisdiction.

Accordingly, it is respectfully submitted that this issue of jurisdiction should first be presented to the court, for a determination as to whether or not this action should even remain in District Court, before any efforts are expended on supervising discovery.

Sincerely,

A handwritten signature in black ink, appearing to read 'Sol Kodosi', with a long horizontal line extending to the right.

Sol Kodosi

cc: Gregory Calliste, Jr., Esq. (by ECF)